

Before the
Administrative Hearing Commission
State of Missouri



INK DOCTORS TATTOO STUDIO,

Petitioner,

vs.

OFFICE OF TATTOOING, BODY
PIERCING AND BRANDING,

Respondent.

No. 14-1140 TP

DECISION

We dismiss the complaint filed by Ink Doctors Tattoo Studio (“Ink Doctors”) because we lack authority to hear it.

Procedure

Ink Doctors filed a complaint with this Commission on July 7, 2014. The Office of Tattooing, Body Piercing and Branding (“the Office”) filed a motion for involuntary dismissal of the complaint on August 5, 2014. We notified Ink Doctors that it could file a response to the motion on or before August 22, 2014, but Ink Doctors filed nothing.

We may grant a motion to dismiss for lack of jurisdiction based on the allegations of a complaint. 1 CSR 15-3.436(1)(A) and (3).¹ We find that the following facts, based on Petitioner’s complaint, are undisputed.

¹ All references to “CSR” are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

Findings of Fact for Purposes of the Motion

1. Krystel Cook became the owner of Ink Doctors in 2013, and received a license to operate the business.
2. In December of 2013, Ink Doctors received its first quarterly inspection.
3. The inspectors claimed to have found four violations that were corrected while they were present.
4. Cook received a letter from the director of the office, Vanessa Beauchamp, offering her three years' probation.
5. Cook refused to accept the terms of probation.
6. On April 9, 2014, Ink Doctors was inspected again. The inspectors found another violation, an incorrect consent form.
7. A few weeks later, Cook received another letter offering her one year's probation.
8. Cook filed her complaint because she feels she is being harassed by Beauchamp.
9. On August 5, 2014, the Office filed a complaint seeking to discipline the licenses held by Ink Doctors and Cook. We opened case no. 14-1319 TP in that matter.

Conclusions of Law

This Commission has authority to decide professional licensing matters as set forth in § 621.045.1,² which states:

The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by [an agency that has the power to issue, revoke, suspend, or place on probation any license] may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his or her qualifications or refuses to issue or renew a license of an applicant who has passed an examination for

² Statutory references are to the RSMo Supp. 2013 unless otherwise indicated.

licensure or who possesses the qualifications for licensure without examination[.]³

Section 621.120, RSMo 2000, specifically authorizes an applicant who has been denied a license to file a complaint with this Commission, setting forth that the applicant is qualified for licensure, and authorizes us to hold a hearing on such a complaint. Finally, § 324.038 authorizes a person who has been issued a license subject to probation to file a complaint seeking our review of the licensing board's determination.

These statutes describe the range of actions that this Commission may take with respect to a license: we may issue one, find cause to discipline one, and determine whether one should be subject to probation. But we do not have plenary adjudicative authority. *State Tax Comm'n v. Administrative Hearing Comm'n*, 641 S.W.2d 69, 75 (Mo. banc, 1982). This Commission is a creature of statute and can exercise only those powers conferred by law, not expand them. *Livingston Manor, Inc. v. Dep't of Soc. Servs., Div. of Family Servs.*, 809 S.W.2d 153, 156 (Mo. App. W.D. 1991). We have no power to superintend the actions of the Office. *See Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W.2d 445, 450 (Mo. banc 1985). Finally, we have no power to enforce a principle of equity. *Soars v. Soars-Lovelace, Inc.*, 142 S.W.2d 866, 871 (Mo. 1940).

In short, we have no authority to hear a case and issue a decision concerning the Office's purported harassment of Cook and her business. If we have no jurisdiction to hear the complaint, we cannot reach the merits of the case and can only exercise our inherent power to dismiss. *Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App., E.D. 2000).

³ This statute applies to licensees of the Office by virtue of § 621.045.2, which places "new or additional administrative agencies that have the power to issue, revoke, suspend, or place on probation any license" under the provisions of § 621.045. Section 324.523 sets forth the causes for discipline or refusal of a license issued by the Office.

Summary

We grant the Office's motion for involuntary dismissal.

SO ORDERED on August 29, 2014.

\s\ *Karen A. Winn*
KAREN A. WINN
Commissioner